

# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

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## COMPLETE TITLE OF CASE

LINDA GERKEN, et al.,

Appellants,

v.

MISSOURI DEPARTMENT OF SOCIAL SERVICES, FAMILY SUPPORT DIVISION,

Respondent.

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**DOCKET NUMBER** WD75975

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** December 10, 2013

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## APPEAL FROM

The Circuit Court of Cole County, Missouri  
The Honorable Patricia S. Joyce, Judge

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## JUDGES

Division II: Pfeiffer, P.J., and Ellis and Howard, JJ.

CONCURRING.

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## ATTORNEYS

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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

LINDA GERKEN, et al., )  
)  
Appellants, )  
v. )  
) **OPINION FILED:**  
MISSOURI DEPARTMENT OF SOCIAL ) **December 10, 2013**  
SERVICES, FAMILY SUPPORT )  
DIVISION, )  
)  
Respondent. )

**WD75975**

**Cole County**

**Before Division Two Judges:** Mark D. Pfeiffer, Presiding Judge, and Joseph M. Ellis and Victor C. Howard, Judges

A class composed of pensioners of Missouri's Blind Pension Fund appeal from the Circuit Court of Cole County's partial judgment calculating damages. The trial court certified its partial judgment as final for purposes of appeal pursuant to Rule 74.01(b).

**APPEAL DISMISSED; REMANDED FOR FURTHER PROCEEDINGS.**

### **Division Two holds:**

The partial judgment did not dispose of a distinct judicial unit and did not otherwise comply with this court's mandate in *Gerken v. Sherman*, 351 S.W.3d 1 (Mo. App. W.D. 2011), the most recent appeal of this case.

On remand, the trial court is directed to resolve the remaining "judicial unit" issues, which its partial judgment recognizes that it fails to resolve: the establishment of a process for class members to submit claims and the determination of the disposition of any future surplus.

**Opinion by: Mark D. Pfeiffer, Presiding Judge**

**December 10, 2013**

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.